

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0308P

Use Tax

Calendar Years 1995, 1996, 1997, and Fiscal Year 8/31/98

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, in a letter dated April 28, 1999 protested the penalty assessed for failure to accrue use tax on clearly taxable items.

Taxpayer is qualified to do business in Indiana engaged in the business of manufacturing food items. Taxpayer was previously audited by the department on September 30, 1993.

I. Tax Administration - Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in remitting use tax due.

Upon audit it was discovered that the taxpayer failed to self assess and remit use tax due for the purchase of capital assets, office supplies, consumable supplies, and other miscellaneous items.

Taxpayer was previously audited with the same items in contention and should have made corrections to its reporting the use tax.

Taxpayer states that the payables are processed at the out of state headquarters and sometimes the use tax was overlooked. There was no intent to withhold tax from the department and procedures have been put in place by new management to insure more care is taken to review all future purchases for self-assessment of Indiana use tax.

Taxpayer was previously audited and failed to take corrective measures until the current audit was in progress and the issues were issues in the prior audit.

The department finds no reasonable cause exists, therefore, the request for penalty waiver is denied.

FINDING

Taxpayer's protest is denied.